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EXAMINER

GARG, YOGESH C

ART UNIT PAPER NUMBER

3625

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/699,961

Applicant(s)

SHAH, DARSHATKUMAR

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,18-20,22,31,33-35 and 37-42 is/are pending in the application.
4a) Of the above claim(s) 38-42 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-7,18-20,22,31,33-35 and 37 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/2005 has been entered.

Response to Amendment

2. Applicant's amendment received on 2/23/2005 is acknowledged and entered. Claims 2, 8-17, 21, 23-30, 32 and 36 are canceled, and claims 38-42 are "Withdrawn". Claims 1, 3, 18, 31, 33, are amended. Currently claims 1, 3-7, 18-20, 22, 31, 33-35 and 37 are pending for examination.

Response to Arguments

3. The applicant's arguments (see Remarks, pages 6-9) filed on 2/25/2005 concerning all the pending claims have been fully considered but are moot in view of new grounds of rejection necessitated due to the current amendments. This is a Non-Final action.

Rejection of claim 22 dependent on a canceled claim

4. Claim 22 is rejected as incomplete because being dependent from a canceled claim 21, see MPEP 608.01(n)[R-2] V—Rejection & Objection.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3-7, 33-35 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 3-7, 33-35 and 37 are directed to disembodied data structure claim which are per se not statutory. C.f. In re Wamerdam. The examiner suggests to redraft the claims to include a computer readable medium so that the claimed software in combination with a computer readable medium will be capable of producing a useful, concrete and tangible result. A claim to a computer readable medium encoded with functional descriptive material that can function with a computer to effect a practical application that results in a useful, concrete and tangible result (i.e. running an assembly line or executing a stock transaction) satisfies Section 101. See U.S. Patent 5,710,578 to Beauregard etc. These are merely stored to be read or outputted by a computer without any functional interrelationship, and thus do not impart functionality to the computer, i.e., they are not computer components. **Examples of Non-Functional Descriptive Material :Music, Literature, Art, Photographs, Data base per se** are directed to neither a "process" nor a "machine," but rather embraces or overlaps two

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different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. Id. at 1551.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6.1. Claims 1, 3, 5, 7, 18, 20, 31, 33-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiegel et al. [to be referred as Spiegel] in view of Bezos et al. [to be referred as Bezos].

Regarding claim 1, Spiegel discloses a system which facilitates electronic shopping (see at least abstract), comprising:

a graphical image component residing on a user interface (see at least FIG.1, where reference numbers, " 1 2 3 4 and 5" represent graphical image components which can be selected by clicking on any of these components. Also see col.5, lines 39-65, "*.....The display includes the shopping cart selection navigation bar 101, The selection navigation bar contains an area for each of five shopping carts or electronic commerce contexts. Each shopping cart is currently identified by a number between one and five. The shopping cart identified by numbered 2 is currently selected as indicated by shading.* ". Note: The shopping cart areas

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represented by numbers 1,2...5 correspond to the graphical image components residing on the a user interface) ; and

a shopping basket component associated with the graphical image component (see at least FIG.1, where reference numbers, " 1 2 3 4 and 5" represent graphical image components which can be selected by clicking on any of these components. Also see col.5, lines 39-65, "".....*The display includes the shopping cart selection navigation bar 101, The selection navigation bar contains an area for each of five shopping carts or electronic commerce contexts. Each shopping cart is currently identified by a number between one and five. The shopping cart identified by numbered 2 is currently selected as indicated by shading. "*), the shopping basket component being programmed to provide drag and drop capabilities wherein a user may drag and drop representations of identified items from a plurality of sources into the graphical image and descriptions of the items will be retained by the shopping basket component (see at least col.10, lines 31-65, " *For example, the multiple electronic commerce context ("MECC") system may provide a facility to "reset" a context to default values or to "copy" a context. That is, if a user needs to change certain context information (e.g., billing and shipment information), the user can indicate to "reset" or "copy" a context. When a context is "reset," its information may be reset to certain initial values. the shopping cart selection navigation bar can be used for dragging-and-dropping items into the various shopping carts. For example, a user may select an item by depressing a button on a pointing device, then drag the selected item to the selection navigation bar, and drop the item into a shopping cart by releasing the button. When an item is dragged-and-dropped into a shopping cart, ". Note: The "MECC" limitation in Spiegel allows the user to identify items from a plurality of sources. When the items are dragged and dropped into the shopping basket they also retain their description in the shopping basket, see FIG.1 and col.5, lines 39-51, " *FIG. 1 is a diagram of the display illustrating the use of**

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a shopping cart for each electronic commerce context. The display includes item detailed description 102,... The item detailed description contains information describing the item currently selected by the user. This information may include pricing data, availability data, and a general description of the item. . .. These purchase items can be selected from a plurality of Web pages, which represent a plurality of sources (see at least col.1, line 35-col.2, line 54-67, which suggests that the server computer systems provides and displays Web pages in HTML per user request and these web pages represent a plurality of sources as they could belong to different URLs. See also col.6, line 65-col.7, line 1, ".... The server engine receives HTTP IS requests to access Web pages identified by URLs and provides the Web pages to the client systems" and FIG.4.).

Spiegel further discloses that the system of claim 1, further comprises an ordering component for identifying items retained by the shopping basket component, the ordering component providing for concurrent ordering of the identified items from the respective sources of the identified items (see at least col.5, line 66-col.6, line 11, ".....When a user selects a shopping cart from the selection navigation bar, the selected shopping cart becomes the current shopping cart, which changes the electronic commerce context. The information in the selection box is updated each time a different shopping cart is selected to reflect the currently selected shopping cart. When a user selects the add-to shopping cart button, the currently selected item is added to the currently selected shopping cart. When a user selects the single-action ordering button, an order is automatically placed for the currently selected item. That item is shipped and billed according to the shipment and billing information of the currently selected shopping cart. ",).

Spiegel does not disclose that the plurality of sources, as analyzed above are different sources, that is the items are identified and selected from different web sites and that the concurrent ordering is done for at least two of the identified items from the

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different sources. However, Bezos [please note that both the inventions of Spiegel and Bezos have a common assignee as Amazon.com] in the same field of endeavor, explicitly discloses that the items are identified and selected from different web sites and that the concurrent ordering is done for at least two of the identified items from the different sources (see at least col.2, line 66-col.3, line 4, " *An important benefit of the shopping cart feature is that it allows the customer to select products from multiple different sites, and then perform a single check-out to purchase all of the selected products.* ", and also col.13, lines 9-28. In view of Bezos, it would have been obvious to one of an ordinary skill in the art to have modified Spiegel at the time of the applicant's invention to incorporate Bezos' feature of identifying and selecting items from different web sites and then allowing the customers to order concurrently the identified items from the different sources because, as explicitly suggested in Bezos, it would make it convenient for the customers to perform a single check out to purchase products from multiple different web sites.

Regarding claim 3, Spiegel in view of Bezos discloses that the identified items from the plurality of different sources having a common schema associated with the descriptions of the items (see at least The merchant websites " 106" in Spiegel, in FIGs.1, 2 , 5, 6, 7, 8 and col.5, lines 4-40, disclose relating items with descriptions corresponding to each of the items, the descriptions conforming to a common schema and providing a representation of each of the items at one or more respective distinct sources [multiple different websites, see col.2, line 66-col.3, line 4, " *An important benefit of the shopping cart feature is that it allows the customer to select products from multiple different sites, and*

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then perform a single check-out to purchase all of the selected products. ", and also col.13, lines 9-28]. The common schema is HTML format.).

Regarding claim 5, Spiegel also discloses that in the system of claim 1, the user interface being an Internet browser (see at least FIG.4, col.7, lines 7-13, "*The MECC system contains various components that perform the functions of multiple electronic commerce context. Various components are described below in detail. The client system 420 contains a browser 421. The server and client systems interact by exchanging information via communications link 430, which may include transmission over the Internet.* ").

Regarding claim 7, Spiegel shows that the system of claim 1, the user interface being a desktop of a client computer and the shopping basket component being a desktop application associated with the graphical image (see at least col.7, lines 23-31, "*.....A client system may comprise any combination of hardware or software that can interact with the server system. These systems may include television-based systems or various other consumer products through which orders may be placed. In general, the client and server system may include a central processing unit, a memory, and storage devices. The multiple electronic commerce context ("MECC") system may be stored in a computer-readable medium such as memory or a CD-ROM.....*").

Note: The claimed limitation of desktop and desktop application are covered by Spiegel in his disclosure that *A client system may comprise any combination of hardware or software that can interact with the server system.*).

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Regarding method claims 18, and 20, their limitations are closely parallel to the limitations of claims 1, 3 and 7 and are therefore analyzed and rejected as being unpatentable over Spiegel in view of Bezos based on same rationale.

Regarding claim 31, computer readable medium having computer-executable components, its limitations are already covered in claim 1 and is therefore analyzed and rejected as being unpatentable over Spiegel in view of Bezos based on same rationale.

Regarding claim 33, its limitations are already covered in claim 1 and is therefore analyzed and rejected as being unpatentable over Spiegel in view of Bezos based on same rationale.

Regarding claim 34, Spiegel further teaches comprising a wish list component that stores items that are automatically added to the electronic shopping basket when user defined criteria is met (see at least col.10, lines 54-65, "*...Also, a shopping cart (or more generally an aggregation) can function as a gift registry. That is, a user can select one or more items to be placed in a shopping cart, and the shopping cart can be provided to other users.....*" . Note: The gift registry in Spiegel corresponds to wish list component which are automatically added to the electronic shopping basket as desired by the user.

Regarding claim 35, Spiegel further teaches that the electronic shopping basket is invoked through one of an icon on a web browser and a selectable menu option (see at least FIG.1 and FIG.4 which show the use of web browser and selecting a shopping cart by invoking an icon via a selectable menu option of the shopping carts).

Regarding claim 37, Spiegel disclosing comprising a search engine that facilitates searching items residing on the servers (see at least FIG.4, "411 Server Engine" corresponds to the claimed limitation).

6.2. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiegel in view of Bezos and further in view of Call (US Patent 6,154,738).

Regarding claim 4, Spiegel in view of Bezos teaches the limitations of claim 18 including that the common schema is HTML as analyzed above. Spiegel does not disclose that the common schema is XML schema. However, Call in the field of same endeavor, teaches that the identified items from the plurality of different sources having a common schema associated with the descriptions of the items and that common schema being an XML schema (see at least col.32, lines 20-41, "*The manufacturers preferably provide product information to their connected server in the form of well-formed **eXtensible Markup Language (XML) documents** which may be validated against a standard Document Type Definition (DTD) to which all such product information documents should conform. **The schema** to which such documents adhere may be advantageously expressed in the Resource Description Framework (RDF) and Syntax Specification, as noted earlier, to facilitate the evolution of standardized*

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content definitions for product and company information. The shared product information server illustrated at 840, in its simplest form, does nothing more than make Internet accessible data storage space available where smaller manufacturers without their own servers can make product and company information available via the Internet.....".). In view of Call, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Spiegel in view of Bezos to incorporate the feature of having a common schema associated with the descriptions of the items, identified from a plurality of sources, and that common schema being an XML schema because it helps to present the data from different sources in a format being used by the local web page producer as explicitly shown in Call (see at least col.2, line 64-col.3, line 10).

Regarding claim 19, its limitations are already covered in claim 4 and is therefore analyzed and rejected on the same basis.

6.3. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiegel in view of Bezos and further in view of Xue (US Patent 5,956,709).

Regarding claim 6, Spiegel in view of Bezos discloses that in the system of claim 5 the Internet browser residing on a client computer., (see at least Spiegel,FIG.4, col.7, lines 7-13, "*The MECC system contains various components that perform the functions of multiple electronic commerce context. Various components are described below in detail. The client system 420 contains a browser 421. The server and client systems interact by exchanging information via communications link 430, which may include transmission over the Internet.*").

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Spiegel does not disclose that the shopping basket component resides on a client computer. However, in the same field of remote online shopping, Xue discloses that the shopping basket component resides on the client computer (see at least col.1, lines 46-63). In view of Xue, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Spiegel in view of Bezos to incorporate the feature of the shopping basket component residing on the client computer because it helps to avoid unnecessary transmissions of useful data between client side and server side , as explicitly suggested in Xue (see at least col.1, lines 37-63).

Regarding claim 22, its limitations are already covered in claim 6 and is therefore analyzed and rejected on the same basis.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,850,899 to Chow et al. discloses shopping carts that allow a customer to select products from multiple different sites and then perform a single action to check out for all the items purchased from different multiple sites and also that the shopping basket component resides on a client computer (see at least col.1, lines 45-65)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
May 9, 05